

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**CITY OF SLATER, MISSOURI MUNICIPAL LEAGUE, CHRISTINE CATES,
BARBARA SHAEFFER and JACOB K. ALBARELLI,**

Appellants,

v.

**STATE OF MISSOURI, Respondent, OFFICE OF STATE COURTS ADMINISTRATOR,
Respondent; MISSOURI SHERIFF'S RETIREMENT SYSTEM,**

Respondent.

DOCKET NUMBER WD78016

Date: May 3, 2016

Appeal from:

Cole County Circuit Court

The Honorable Jon E. Beetem, Judge

Appellate Judges:

Division Four: Alok Ahuja, C.J., P.J., Gary D. Witt, J. and John M. Torrence, Sp. J.

Attorneys:

Bernard A. Garner, Independence, MO and Ryan Bertels, Jefferson City, MO for MO Municipal League, City of Slater, MO, Christine Cates, Barbara Schaffer, and Jacob Albarelli

Robert L. Presson, Jefferson City, MO for respondent State of Missouri; Robert L. Presson, Jefferson City, MO for Office of State Courts Administrator; Rodney D. Gray, Jefferson City, MO and Timothy J. Sear, Overland Park, KS for Sheriffs' Retirement System

MISSOURI APPELLATE COURT OPINION SUMMARY

COURT OF APPEALS -- WESTERN DISTRICT

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The Missouri Supreme Court issued a revised “Schedule for Collection of Court Costs, Fees, Miscellaneous Charges and Surcharges,” effective August 28, 2013, which indicated that the \$3.00 surcharge required by § 57.955.1, to fund the Sheriffs’ Retirement System, should be collected by municipal courts.

The Appellants in this case are the City of Slater, Christine Cates (Assistant City Administrator for the City of Blue Springs), Barb Schaffer (Court Clerk and Court Administrator for the Municipal Court of Jefferson City), the Missouri Municipal League (“MML”), and Jacob Albarelli. The Appellants filed suit seeking declaratory and prospective injunctive relief to prohibit collection of the \$3.00 surcharge by municipal courts. They argued that collection of the surcharge in municipal courts was not authorized by § 57.955.1, and that application of the statute to municipal courts would violate Article I, § 14 of the Missouri Constitution.

The circuit court dismissed Appellants’ claims. The court found that the City, Cates, Shaffer, and MML lacked standing. Although the court found that Albarelli had standing to sue because he had paid the surcharge, it found that his claims were barred by sovereign immunity.

This appeal followed.

AFFIRMED.

Division Four holds:

We conclude that none of the Appellants has standing to challenge the collection of the surcharge in municipal courts.

Cates and Shaffer first argue that they have standing to sue as Missouri taxpayers, because municipal courts are required to expend tax-generated funds to collect the (allegedly unlawful) surcharge. In Missouri, taxpayers have standing to challenge a direct expenditure of funds generated through taxation. In this case, however, the petition fails to allege such a “direct expenditure,” because the petition fails to allege that compliance with the requirements of § 57.955.1 will require expenditures, directly caused by the allegedly unlawful surcharge, which are separate and apart from the general operating expenses that municipal courts would incur regardless.

The City, Cates and Shaffer allege that they have standing in their official capacities, because the surcharge will directly impact the operation of the municipal courts. Appellants have not alleged, however, that they are entitled to receive any part of the surcharge, or that the surcharge diverts money away from their municipalities. Instead, they have merely alleged that they would be required to collect and distribute a particular surcharge along with other court costs. This is insufficient to establish a direct impact on their operations. Instead, the Appellants merely serve the administrative role of collecting, accounting for, and remitting the surcharge to the retirement system; this does not give them standing to challenge the surcharge’s legality.

The Missouri Municipal League’s claim of associational standing also fails. For an association to have standing based on asserted injuries to its members, the association must establish that its members would otherwise have standing to bring suit in their own right. Because Missouri municipalities would not themselves have standing, the Missouri Municipal League’s claim of associational standing must likewise fail.

Finally, Appellant Albarelli asserts that he has standing to challenge the surcharge because he paid the court costs in question in connection with a traffic ticket he received in the City of Blue Springs. To establish standing, Albarelli was required to demonstrate that the relief he seeks would redress the injury he has allegedly suffered. The Second Amended Petition requests a declaration that imposition of the surcharge in municipal court cases is unlawful, and prospective injunctive relief prohibiting the future collection of the surcharge in municipal courts. The petition does not seek a refund to Albarelli of the amount he paid, or seek damages for the allegedly improper collection of the surcharge from Albarelli. The declaratory and prospective injunctive relief requested in the petition would not remedy the injury Albarelli claims to have suffered – his prior payment of the allegedly unlawful charge.

Before: Division Four: Alok Ahuja, C.J., P.J., Gary D. Witt, J. and John M. Torrence, Sp. J.

Opinion by: Alok Ahuja, Judge

May 3, 2016

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